IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

OP.No. 2232 of 2001(N)

PETITIONER:

JOY C.PAUL,
CHERUKUNNEL HOUSE,
KARIMPANA, PALAKUZHA.
KOOTHATTUKULAM – PRESENTLY
WORKING AT 11918, BELTSVILLE DRIVE,
MARYLAND U.S.A. - REPRESENTED BY HIS
POWER OF ATTORNEY – JACOB C.VARGHESE,
VHENNATTEL HOUSE, KARIMPANA.P.O.,
KOOTHATTUKULAM.

BY ADV. SRI.P.C.JOSEPH(JOSE)
SRI.JACOB THOMAS

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
ERNAKULAM.

2. THE EXECUTIVE ENGINEER,
P.H.DIVISION,
KERALA WATER AUTHORITY,
THODUPUZHA – 685 584.

3. THE TAHSILDAR,
MUVATTUPUZHA.

4. THE DEPUTY TAHSILDAR (R.R.)
MUVATTUPUZHA.

5. THE VILLAGE OFFICER,
PALAKUZHA.

BY ADV. SMT.CHINCY GOPAKUMAR, SC, KWA
GOVERNMENT PLEADER
SRI.BALU VARGHESE.(FOR KWA)

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 2232/2001

ORDER ON CMP NO. 3737/2001 IN O.P.No. 2232/2001.

DISMISSED.

22/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE DEMAND NOTICE BEARING NO. BS-796/2000 DATED 01/01/2001.

EXT.P2 COPY OF FORM 11, NOTICE OF ATTACHMENT OF IMMOVABLE PROPERTY.

EXT.P3 COPY OF THE JUDGMENT IN O.P.No. 7077/2000 DATED 10TH AUGUST, 2000.

EXT.P4 COPY OF THE RECEIPT ISSUED by the VILLAGE OFFICER PALAKUZHA DATED 24/3/2000.

EXT.P5 COPY OF THE RECEIPT ISSUED BY THE VILLAGE OFFICER, PALAKUZHA DATED 20/5/2000.

EXT.P6 COPY OF THE COUNTER AFFIDAVIT FILED BY 2ND RES. IN O.P.No. 7077/2000 DATED 08/08/2000.

EXT.P7 COPY OF THE EXTENSION ORDER NO. W1-7022/83 (VOL.ii) DATED 06/01/87.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 2232 of 2001

Dated, this the 22nd day of February, 2007

J U D G M E N T

Petitioner was awarded a work by the Water Authority, which should have been completed in terms of the contract by 20/03/1986. Since the petitioner could complete the work in time, time for completion was extended till 31/05/1987. However, petitioner abandoned the work and left for USA and is presently settled there. The challenge against recovery proceedings is mainly on the ground of limitation. The learned Standing Counsel for Water Authority submitted that there was no delay on the part of the Water Authority and recovery could not be effected in time only because petitioner was in U.S. and all the correspondence remain without any response. It is seen from Ext.P3 that petitioner's father filed O.P. in the year 2000 in this Court against recovery proceedings, which only shows that recovery proceedings were already in progress in the year 2000 itself. This Court held that recovery should be confined on

defaulter’s property i.e. the property owned by the petitioner. After Ext.P3 judgment, recovery is continued against petitioner’s property. Therefore petitioner filed this original petition. I do not find limitation claimed by the petitioner is tenable because recovery is initiated in time and recovery could not be effective only because petitioner was settled in the U.S. So far as, petitioner's challenge against recovery on the ground that Revenue Recovery Act is not applicable, I do not think the same is tenable because for Water Authority dues the Act is made applicable by issuing notification during 1989. The provision is only procedural and therefore recovery under Revenue Recovery Act could be initiated for past arrears after issuance of notification under Sec. 71 of the RR Act. In these circumstance, this original petition is devoid of any merit and is liable to be dismissed. However, I feel that petitioner can be given an opportunity to settle liability without any interest, if the entire arrears are paid before 30/04/2007. If petitioner makes payment as above, no collection charges also will be recovered. However, respondents are directed to furnish a statement

exclusive of interest for settlement of liability as above. If petitioner does not make payment before 30/04/2007, then there will be direction to the respondents to proceed for recovery of entire arrears with interest and collection charges immediately after 30/04/2007. However, if petitioner has deposited any amount and the same was adjusted towards liability including interest there is no need to grant refund by granting waiver of interest.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg